

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 01-063)

In re Application of:)
)
Boyer, et al.)
)
Serial No.: 09/560,397) Group Art Unit: 2172
)
Filed: April 28, 2000) Examiner: Unassigned
)
For: Method, Computer Program Product,)
and System for Determining Potential)
Licensees of a Patent Portfolio)

Commissioner for Patents
Washington, DC 20231

#3
S. Cutler
1-4-02

POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST
(REVOCATION OF PRIOR POWERS)

As assignee of record of the entire interest of the above identified

☒ application

☐ patent

REVOCATION OF PRIOR POWERS OF ATTORNEY

all powers of attorney previously given are hereby revoked and

NEW POWER OF ATTORNEY

The undersigned hereby appoints all of the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and directs that all correspondence be addressed to that Customer Number:

Customer Number: 020306
Principal attorney or agent: Bradley J. Hulbert
Telephone number: 312-913-0001

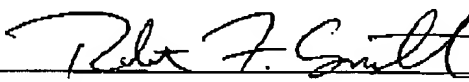
Assignee of Entire Interest:

Name: Delphion, Inc.

Address: 3333 Warrenville Road, Lisle, Illinois 60532

EVIDENCE AND CERTIFICATION OF CHAIN OF TITLE☒ Recorded in PTO on 4/28/2000Reel 010773Frame 0624☒ Recorded herewith.**ASSIGNEE CERTIFICATION**

In accordance with 37 C.F.R. § 3.73 the assignee hereby certifies that the evidentiary documents with respect to its ownership have been reviewed and that, to the best of assignee's knowledge and belief, title is in the assignee seeking to take this action.

Date: 11.30.01
SignatureName: Robert F. SmithTitle: Vice President & General Counsel

FORM PTO-1595

RECORDATION FORM COVER SHEET PATENTS ONLY

Docket No. 01-063
U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

To The Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

International Business Machines Corporation

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

2. Name and address of receiving party(ies)

Name: ICG Patent, Inc.

Address: 3333 Warrenville Road

City: Lisle

State: Illinois

Country: U.S.A.

Zip: 60532

3. Nature of conveyance:

☐ Assignment

☐ Merger

☐ Security Agreement

☐ Change of Name

☒ Other Intellectual Property Agreement

Execution Date: May 15, 2000

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

Filing Date

B. Patent No.(s)

09/560,397

April 28, 2000

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Edward K. Runyan

Registration No.: 43,067

Company Name: McDonnell, Boehnen, Hulbert & Berghoff

Street Address: 300 South Wacker Drive - 32nd Floor

City: Chicago

State: Illinois

Country: U.S.A.

ZIP: 60606

6. Total number of applications and patents involved: 1

7. Total Fee (37 CFR 3.41).....\$40.00

☐ Enclosed

☒ Authorized to be charged to deposit account

8. Deposit account number:

13-2490

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Edward K. Runyan

Printed Name of Person Signing



Signature

Date: December 10, 2001

Total number of pages including cover sheet, attachments, and document: 19

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks

Box Assignments

Washington, D.C. 20231

License Reference No. L003860

051500

INTELLECTUAL PROPERTY AGREEMENT
with an Effective Date of May 15,
2000, between INTERNATIONAL
BUSINESS MACHINES CORPORATION, a
New York corporation (hereinafter,
"IBM"), and ICG PATENT, INC., a
Delaware corporation,
(hereinafter, "Newco")

WHEREAS, IBM has proprietary rights to certain software that provides the capability of providing customers with access to intellectual property rights-related information in a web-based environment (such software, the "Intellectual Property Network"); and

WHEREAS, IBM desires to assign certain of such proprietary rights in such software, and to license certain other proprietary rights in such software, and Newco desires to acquire such rights by such assignment and license;

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties hereto agree as follows:

Section 1 Definitions

1.1 "Assigned Software" shall mean the Object Code and/or Source Code listed in Exhibit 1, and documentation related thereto listed in Exhibit 2, provided, however, that following shall not be considered to be Assigned Software, whether or not listed in Exhibits 1 or 2: Incidental Software, trademarks, Object Code or Source Code in which the copyrights are not owned by IBM, commercially available IBM software, and the "look and feel" of any screen display.

1.2 "Screen Display" shall mean the "look and feel" of any screen display embodied in the Assigned Software.

1.3 "Licensed Software" shall mean the Object Code and/or Source Code listed in Exhibit 3, and documentation related thereto listed in Exhibit 4.

1.4 "Derivative Work" shall mean a work which is based upon one or more preexisting works, including, but not limited to, a revision, modification, translation, abridgment, condensation, expansion or any other form in which such preexisting works may be recast, transformed or adapted, where such work could not have been prepared without infringing the copyrights in such preexisting work.

1.5 "Object Code" shall mean computer programming code, substantially or entirely in binary form, which is intended to be directly executable by a computer after suitable processing but without the intervening steps of compilation or assembly.

1.6 "Source Code" shall mean computer programming code, other than Object Code, comments and procedural code, such as job control language, which may be printed out or displayed in human readable form.

1.7 "Incidental Software" shall mean any portions of the Source Code and/or Object Code listed in Exhibit 1 and identified thereon which were developed as part of IBM programs other than the Intellectual Property Network, but were incorporated into the Intellectual Property Network.

1.8 "Assigned Patent Applications" shall mean the patent applications listed in Exhibit 6.

1.9 "Subsidiary" shall mean shall mean a corporation, company or other entity:

- (a) more than fifty percent (50%) of whose outstanding shares or securities (representing the right to vote for the election of directors or other managing authority) are, now or hereafter, owned or controlled, directly or indirectly, by a party hereto, or
 - (b) which does not have outstanding shares or securities, as may be the case in a partnership, joint venture or unincorporated association, but more than fifty percent (50%) of whose ownership interest representing the right to make the decisions for such corporation, company or other entity is now or hereafter, owned or controlled, directly or indirectly, by a party hereto,
- but such corporation, company or other entity shall be deemed to be a Subsidiary only so long as such ownership or control exists.

1.10 "Internal Use Software" shall mean the Object Code and/or Source Code listed in Exhibit 7, and documentation related thereto listed in Exhibit 8.

1.11 "Licensed Materials" shall mean those items listed in Exhibit 9.

Section 2 Assignment and License of Rights

2.1 Subject to all rights granted to others prior to the Effective Date and to IBM's reservation of rights set forth in Section 3, IBM hereby transfers and assigns to Newco all of its right, title and interest in and to any and all copyright ownership interest IBM may have throughout the world in the Assigned Software. No rights are assigned in Incidental Software, IBM "shrink wrap software", Excluded Software (as listed in Exhibit 11), or any Object Code or Source Code in which the copyrights are not owned by IBM.

2.2 Subject to all rights granted to others prior to the Effective Date, IBM hereby grants to Newco and its Subsidiaries a worldwide, nontransferable (except as provided in Section 10.1), nonexclusive, irrevocable license under IBM's copyrights in the Incidental Software to use, copy, reproduce, modify, display, perform, execute, distribute (for use by the distributee), translate into any language or form, and prepare Derivative Works of, the Incidental Software solely for use in combination with any of the Assigned Software, Licensed Software, or Derivative Works created by Newco of the foregoing. Newco shall be the owner of any copyrights in Derivative Works of the Incidental Software that it creates, subject to IBM's ownership of copyrights in the Incidental Software.

2.3 Subject to all rights granted to others prior to the Effective Date, and further subject to Section 2.7, IBM hereby grants to Newco and its Subsidiaries a worldwide, nontransferable (except as provided in Section 10.1), nonexclusive, irrevocable license under IBM's copyrights to (i) use, copy, reproduce, modify, display, perform, execute, translate into any language or form, distribute internally, distribute externally in Object Code form only (for use by the distributee), and prepare Derivative Works of, the Licensed Software. Newco shall be the owner of any copyrights in Derivative Works of the Licensed Software that it creates, subject to IBM's ownership of copyrights in the Licensed Software. Ownership of copyrights in the Licensed Software and

Derivative Works thereof created by IBM shall be and remain exclusively with IBM.

2.4 Subject to all rights granted to others prior to the Effective Date, and further subject to Section 2.7, IBM hereby grants to Newco and its Subsidiaries, a worldwide, nontransferable, nonexclusive, irrevocable license under IBM's copyrights to use, copy, reproduce, modify, display, perform, execute, translate into any language or form, distribute internally, and prepare Derivative Works of, the Internal Use Software. Newco shall be the owner of any copyrights in Derivative Works of the Internal Use Software that it creates, subject to IBM's ownership of copyrights in the Internal Use Software. Ownership of copyrights in the Internal Use Software and any Derivative Works thereof shall be and remain exclusively with IBM.

2.5 To the extent it has the right to do so, and subject to all rights granted to others prior to the Effective Date, and further subject to Section 2.7, IBM hereby grants to Newco and its Subsidiaries a worldwide, nontransferable (except as provided in Section 10.1), nonexclusive, irrevocable license under IBM's copyrights to (i) use, copy, reproduce, modify, display, perform, execute, translate into any language or form, and prepare Derivative Works of, the Screen Displays, and (ii) distribute the Screen Displays and Derivative Works thereof in products of Newco. Newco shall be the owner of any copyrights in Derivative Works of the Screen Displays that it creates, subject to IBM's ownership of copyrights in the Screen Displays. Ownership of copyrights in the Screen Displays and Derivative Works thereof created by IBM shall be and remain exclusively with IBM.

2.6 To the extent it has the right to do so, and subject to all rights granted to others prior to the Effective Date, and further subject to Section 2.7, IBM hereby grants to Newco and its Subsidiaries, a worldwide, nontransferable, nonexclusive, irrevocable license under IBM's copyrights to copy, reproduce, display, and distribute the Licensed Materials. Ownership of copyrights in the Licensed Materials shall be and remain exclusively with IBM.

2.7 The licenses granted by IBM to Newco under Sections 2.3, 2.4, 2.5, and 2.6 shall be limited to the fields of:

- (a) aggregating and providing intellectual property rights related information and information related to licensing of intellectual property,
- (b) providing tools, services and products related to intellectual property rights related information and to licensing of intellectual property, and
- (c) facilitating transactions related to licensing of intellectual property and to intellectual property rights related information, services and transactions in an online environment ("NewCo Field").

2.8 IBM hereby transfers and assigns to Newco all of IBM's right, title and interest in and to any and all patent ownership interest it may have throughout the world in the Assigned Patent Applications, subject to all rights granted to others thereunder prior to the Effective Date and to IBM's reservation of rights set forth in Section 3.

2.9 IBM, on behalf of itself and its Subsidiaries, hereby grants to Newco and its Subsidiaries a nonexclusive and worldwide license under the patents licensable by IBM and its Subsidiaries which cover the Assigned Software, Incidental Software, Screen Display and Licensed Software as delivered to Newco hereunder (collectively, the Software Products), to make, use, import, offer for sale, lease, license, sell and/or otherwise transfer ownership of any Software Products, or any portion thereof, to the extent permitted under the rights granted in Sections 2.1-2.7, whether such Software Product or portion thereof is sold on a standalone basis or as part of another product, provided, however, that the patent license granted under this section shall not apply to any code, product, or portion of a product that is not the Software Products or a portion of the Software Products.

Section 3 Reservation of Rights

3.1 IBM hereby reserves and retains, for the benefit of itself and its Subsidiaries, an irrevocable, nonexclusive, worldwide, paid-up right and license to use, copy, reproduce, modify, execute, translate into any language or form, distribute, display, perform, and prepare Derivative Works of the Assigned Software (a) for internal purposes of IBM; (b) in connection with IBM's licensing of IBM (and not third party) intellectual property; and (c) for sublicense to third parties outside the field of web-based service where multiple third party buyers and multiple third party sellers of intellectual property rights

come to license such intellectual property rights (the "IP Exchange Field").

3.2 IBM hereby reserves and retains for the benefit of itself and its Subsidiaries an irrevocable, nonexclusive, worldwide, paid-up right and license under the Assigned Patent Applications, including continuations, divisions, continuations-in-part, and foreign counterpart applications thereof, and any patents or utility models issuing from any of such applications, anywhere in the world, to make, have made, use, import, offer for sale, lease, sell and/or otherwise transfer any information handling system product.

3.3 (a) Subject to Section 3.3(b), IBM hereby reserves and retains for the benefit of itself and its Subsidiaries, and Newco agrees to provide to IBM and its Subsidiaries access, without charge, to an intellectual property network service operated by or on behalf of Newco, such access to include at least the features set forth in Exhibit 10, but with respect to any particular feature, only so long as Newco offers such feature to its customers;

(b) Features 7 and 8 in Exhibit 10 shall be provided free of charge for a minimum period of twelve months after the Effective Date, during which time IBM shall provide Newco with all IBM Technical Disclosure Bulletins through the most current dates, for use as Licensed Materials hereunder. The IBM Technical Disclosure Bulletin shall be delivered to Newco in the form that such data is delivered to other IBM customers of such data, which, as of the date of this Agreement, is electronically. After such twelve month period has elapsed, either party may terminate its obligations under this Section 3.3(b).

Section 4 Delivery of Assets

4.1 Within ten (10) days after the Effective Date, IBM will make available to Newco one copy each of the Object Code and/or Source Code, and documentation listed in Exhibits 1, 2, 3, 4, 7, 8, and 9 and one copy of IBM's docket file for each Assigned Patent Application listed in Exhibit 6.

Section 5 Consideration

Consideration for the rights granted to Newco herein is provided for in Section 1.3 of the Asset Purchase Agreement between the parties dated May 15, 2000, which consideration shall be irrevocable and nonrefundable.

Section 6 Representations and Warranties

6.1 IBM represents and warrants that it has the full right and power to make the assignment and grant the license(s) set forth in Section 2.

6.2 IBM further represents and warrants as follows:

- (a) Except as identified in Exhibit 5, IBM has not licensed the Assigned Software or Incidental Software within the IP Exchange Field in any manner that has a material adverse effect on the business of Newco within the Newco Field;
- (b) the Assigned Software, Incidental Software, Screen Displays and Licensed Software as provided to Newco hereunder do not infringe the copyrights of any third party;
- (c) IBM's legal department has not received written notice from any person that the Assigned Software or Incidental Software infringe the intellectual property rights of any third party;
- (d) there are no pending court actions regarding the infringement of any third party intellectual property rights regarding the Assigned Software, Incidental Software, Screen Displays or Licensed Software;
- (e) IBM has not assigned or granted an exclusive license under the Assigned Software, Incidental Software, Screen Displays or Licensed Software;
- (f) all software on Exhibit 1 is Assigned Software except for such portions specifically identified as Incidental Software.

6.3 EXCEPT AS SET FORTH IN SECTION 6.2 ABOVE, ALL SOFTWARE, INFORMATION AND ANY OTHER ITEMS PROVIDED UNDER THIS AGREEMENT ARE PROVIDED ON AN "AS IS" BASIS. EXCEPT AS PROVIDED IN SECTION 6.2, IBM MAKES NO OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND EXCEPT AS PROVIDED IN SECTION 6.5, BUT SUBJECT TO SECTION 6.4, IBM DOES NOT ASSUME ANY LIABILITY IN RESPECT OF ANY INFRINGEMENT OF PATENTS OR OTHER INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

6.4 EXCEPT FOR ANY BREACHES OF CONFIDENTIALITY OBLIGATIONS, AND NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, LOST SAVINGS, LOST REVENUE, LOSS OF PROFITS OR GOODWILL, OR OTHER SUCH DAMAGES, REGARDLESS OF THE FORM OF ACTION, IN CONNECTION

WITH ANY ASPECT OF THE TRANSACTION UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (IT BEING UNDERSTOOD THAT ANY DAMAGES OF THIRD PARTIES CLAIMED AGAINST NEWCO FOR WHICH IBM HAS AN INDEMNITY OBLIGATION HEREUNDER ARE DIRECT DAMAGES OF NEWCO AND SUCH DAMAGES SHALL NOT BE EXCLUDED UNDER THE LIMITATIONS OF THIS SECTION 6.4, BUT SHALL REMAIN SUBJECT TO THE LIMITATIONS OF SECTION 6.5).

6.5 Until 2 years after the Effective Date, and unless the parties can reach a mutually agreeable alternative resolution, IBM shall indemnify, defend and hold Newco (and its officers, directors and employees) harmless from and against any third party claims arising out of or relating to a breach of IBM's warranties in Section 6.2, provided that in no event shall IBM's liability under this Section 6.5, or otherwise in respect of a breach of representation or warranty under this Agreement, exceed \$10,000,000, except in the event that IBM has committed fraud with respect to a given breached representation, provided, however, that no right of indemnification under this Section 6.5 for a breach by IBM of the representation and warranty in Section 6.2(f) shall be available to Newco unless (a) such breach has a material adverse effect on Newco's business within the Newco Field, and (b) Newco has provided written notice to IBM of Newco's belief that a portion of the software on Exhibit 1 is Incidental Software, and (c) IBM has, within a period of thirty days after such written notice, not assigned such portion to Newco, or otherwise cured such breach, such as by assigning to Newco suitable substitute software for such Incidental Software. Nothing in this Agreement shall require IBM to assign its copyrights in Incidental Software to Newco. The aggregate five million dollar (\$5,000,000.00) limitation on liability set forth in Section 9.2 of the Asset Purchase Agreement between the parties dated May 15, 2000, shall not apply to this Agreement.

6.6 Pursuant to Section 6.5, Newco agrees to give prompt written notice to IBM of the assertion of any claim, in respect of which indemnity may be sought under Section 6.5, including the amount and other details of such claim. IBM, at its sole expense may participate in and control the defense of any such claim at its own expense. Newco undertakes to faithfully and fully cooperate with IBM in all respects required for the best defense against any such claim. For as long as IBM conducts the defense of any such claim, Newco shall take no actions in relation to such claim, without the prior written consent of IBM. IBM shall not be liable under Section 11.5 for any

settlement effected without its written consent of any claim for which indemnity may be sought hereunder. IBM shall be authorized to consent to a settlement of, or the entry of any judgment arising from, any claim of which Newco has assumed the defense thereof (i) without the prior written consent of Newco if such settlement or entry of judgment would result in the payment of monetary damages only and IBM pays the full amount of such payment on behalf of Newco and Newco and its Subsidiaries or affiliates are given a complete release from any responsibility or liability in respect thereof and (ii) with the prior written consent of Newco (which consent shall not be unreasonably withheld) if such settlement or entry of judgment would result in relief (x) other than the payment of monetary damages; or (y) which would require any payment by Newco.

6.7 Newco agrees to provide IBM with prompt written notice in the event that Newco discovers that the code identified in Exhibit 1 includes Incidental Software, and in such event, to allow Newco employees to work with IBM as contractors, upon request by IBM and at no expense to Newco, to develop substitute software for such Incidental Code. The parties shall hold discussions in good faith to determine whether such substitute software is functionally equivalent to the Incidental Software it was designed to replace, and if they agree that it is functionally equivalent, IBM may assign such substitute software to Newco, in which event such Incidental Software shall be deemed to be Licensed Software as of the Effective Date, and IBM shall not be deemed to have breached its representation under Section 6.2(f) with respect to such Incidental Software. Any reasonable out-of-pocket expense incurred by IBM in the development of such substitute software assigned to Newco shall serve to reduce IBM's limit of liability under Section 6.5.

Notwithstanding the foregoing, IBM shall have no obligation to develop any substitute software for Incidental Code discovered to be listed on Exhibit 1.

Section 7.

Confidential Information: Nondisclosure

7.1 All documents and other tangible items containing IBM confidential information to be provided to Newco shall be clearly marked with the words "IBM Confidential" or a similar restrictive legend. Any Licensed Software, Internal Use Software, Licensed Materials, or Incidental Software provided hereunder as Source Code shall be deemed to be IBM Confidential whether marked or not. IBM does not wish to receive from Newco

any information considered confidential by Newco or any third party. In the event this becomes necessary, the parties will enter into a separate agreement with respect to such information. All information received from Newco that is not subject to a separate agreement shall be considered as non-confidential information.

7.2 Subject to the provisions of Sections 7.3 and 7.4, until January 1, 2005, Newco shall use the same care and discretion to avoid disclosure, publication or dissemination of such received IBM confidential information outside of Newco as Newco uses with similar information of its own which it does not wish to publish, disclose or disseminate, but in no event no less than a reasonable degree of care and discretion. The foregoing does not limit the licenses granted in Section 2.

7.3 Disclosure by Newco of IBM confidential information is permissible if such disclosure is in response to a valid order of a court or other governmental body or is otherwise required by law. In such event, Newco will give IBM prompt notice of the requirement to disclose to allow IBM a reasonable opportunity to obtain a protective order and/or to review the information proposed for disclosure.

7.4 The obligation specified in Section 7.2 shall not apply to any information that:

- (a) is in the possession of Newco without obligation of confidence at the time of receipt from IBM;
- (b) is independently developed by Newco;
- (c) is or becomes publicly available without breach of this Agreement;
- (d) is rightfully received by Newco from a third party without obligation of confidence; or
- (e) is released for disclosure by IBM with IBM's written consent.

7.5 The "Residuals" of IBM's confidential information provided to Newco hereunder means information of general application or nature, in non-tangible form, retained in the memories of persons who have had access to the information, without further reference to any material that is written, stored in magnetic, electronic or physical form, or that is otherwise fixed. Newco may use the Residuals of such information for any purpose, subject to IBM's patent rights. Inherent disclosure of Residuals of such information by Newco in the use, distribution

or marketing of any product or service shall not be deemed to be a violation of Newco's obligations under this Section 7.

Section 8. Trademarks

8.1 No rights in any trademark, service mark, trade name, or logo are conveyed to Newco by IBM under this Agreement. IBM disclaims all warranties that Newco's use of any mark, name or logo in connection with Newco's sale of products or services that include or relate to the Assigned Software, Licensed Software, Internal Use Software, Screen Displays, or Licensed Materials is free of infringement of any IBM or third party trademark, service mark, trade name, or logo.

8.2 Newco shall cause all IBM trademarks, service marks, trade names and logos, including design variations thereof, to be removed promptly (and no later than 90 days after the Effective Date) from any software provided to Newco hereunder which Newco provides to the public.

Section 9. Communications

9.1 Notices or other communication required or permitted to be made or given to either party hereto pursuant to this Agreement shall be sent to such party by facsimile or by registered or certified mail to the following addresses and shall be effective upon receipt:

9.1.1 For mailing to IBM:

Director of Licensing
Intellectual Property and Licensing
International Business Machines Corporation
North Castle Drive, MD-NC119
Armonk, New York 10504-1785
United States of America

9.1.2 For facsimile transmission to IBM:

(914) 765-4380

9.1.3 For mailing to Newco:

Internet Capital Group
435 Devon Park Drive
600 Building

Wayne, PA 19087

9.1.3 For facsimile transmission to Newco:

(610) 989-0112

9.2 A License Reference Number will be assigned to this Agreement by IBM upon execution. This Number shall be included on or with all notices and communications.

Section 10 Miscellaneous

10.1 Newco shall not assign this Agreement, assign or sublicense any of the licenses (except as expressly provided herein) granted under it, or delegate any of its obligations, except to a Subsidiary or in connection with a change of control, merger, acquisition or sale of all or substantially all of the assets to which this Agreement relates, provided, however, that Newco shall require the acquiror of such assets to agree not to disclose the Source Code form of the Licensed Software and Internal Use Software to anyone other than those of such acquiror's employees, consultants or contractors working within the Newco Field who have a need to see such Source Code. Any attempted assignment in derogation of the foregoing shall be void.

10.2 Except as specifically granted in this Agreement, no license, immunity, or other right is granted, either directly or indirectly, by implication, estoppel or otherwise, to either party with respect to any patents or patent applications, trademarks, copyrights, trade secrets, computer programs, know-how, mask works or other intellectual property rights of the other party.

10.3 Nothing contained in this Agreement shall be construed as conferring any right on either party to use in advertising, publicity, or other promotional activities any name, trade name, trademark, trade dress or other designation of the other party hereto (including any contraction, abbreviation or simulation of any of the foregoing), except as expressly stated herein.

10.4 Each party hereto agrees not to use or refer to this Agreement or any provision hereof in any promotional activity without the express written approval of the other party.

10.5 Nothing in this Agreement shall be construed as requiring IBM to provide technical assistance to Newco in connection with the operation or use of the Assigned Software assigned, the Incidental Software, the Screen Displays, Licensed Software, Internal Use Software, or Licensed Materials licensed pursuant to this Agreement, or in connection with any other matter.

10.6 This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with the law of the State of Delaware, USA, as such law applies to contracts signed and fully performed in such State. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any action, suit or proceeding arising out of or relating to this Agreement.

10.7 Newco agrees not to export or re-export, or cause to be exported or re-exported, any technical data (including software) received hereunder, or the direct product of such technical data, to any country or person which, under the laws of the United States, are or may be prohibited from receiving such technical data or the direct product thereof.

10.8 This Agreement will not be binding upon the parties until it has been signed hereinbelow by or on behalf of each party, in which event it shall be effective as of the Effective Date. No amendment or modification hereof shall be valid or binding upon the parties unless made in writing and signed as aforesaid.

10.9 The headings of the several Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

10.10 If any Section of this Agreement is found by competent authority to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such Section in every other respect and the remainder of this Agreement shall continue in effect so long as the Agreement still expresses the intent of the parties. If the intent of the parties cannot be preserved, this Agreement shall be either renegotiated or terminated.

10.11 This Agreement may be executed by the parties in one or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

10.12 This Agreement embodies the entire understanding of the parties with respect to the subject matter hereof and merges all prior discussions between them, and neither of the parties shall be bound by any conditions, definitions, warranties, understandings or representations with respect to the subject matter hereof other than as expressly provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed as of the date first written above.

INTERNATIONAL BUSINESS
MACHINES CORPORATION

By 
Gerald Rosenthal
Vice President

APT

Date May 15, 2000

ICG PATENT, INC.

By _____

Name _____

Title _____

Date _____

10.11 This Agreement may be executed by the parties in one or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

10.12 This Agreement embodies the entire understanding of the parties with respect to the subject matter hereof and merges all prior discussions between them, and neither of the parties shall be bound by any conditions, definitions, warranties, understandings or representations with respect to the subject matter hereof other than as expressly provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed as of the date first written above.

INTERNATIONAL BUSINESS
MACHINES CORPORATION

By _____
Gerald Rosenthal
Vice President

Date _____

ICG PATENT, INC.

By John Mann
Name _____

Title _____

Date _____

Exhibit 1 through Exhibit 5 (pages 15 through 73) are intentionally omitted.

Exhibit 6

Assigned Patent Applications

Title	Inventors	Filed	Docket Number
Query Forwarding For Online Search Engines	Steve Boyer Stefan Edlund Matthias Eichstaedt	June 30, 1999	ARC9-1999-0030
Method, Computer Program Product, and System For Determining Assignees Related by Classes Of a Classification System to a Source Patent Portfolio	Steve Boyer Tom Griffin Alex Miller	April 28, 2000	STL9-2000-0026US1
Method, Computer Program Product, and System For Determining Assignees Related by Common Cited References With a Source Patent Portfolio	Steve Boyer Tom Griffin Alex Miller	April 28, 2000	STL9-2000-0027US1
Method, Computer Program Product, and System For Determining Assignees Associated With a Source Patent Portfolio	Steve Boyer Tom Griffin Alex Miller	April 28, 2000	STL9-2000-0028US1
Method, Computer Program Product, and System For Determining Potential Licensees of a Patent Portfolio	Steve Boyer Alex Miller	April 28, 2000	STL9-2000-0029US1

Exhibit 7 through Exhibit 10 (pages 75 through 81) are intentionally omitted.

Docket No. 01-063

FORM PTO-1595

RECORDATION FORM COVER SHEET

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office


PATENTS ONLY

To The Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

<p>1. Name of conveying party(ies):</p> <p>ICG Patent, Inc.</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies)</p> <p>Name: Delphion, Inc.</p> <p>Address: 3333 Warrenville Road</p> <p>City: Lisle State: Illinois</p> <p>Country: U.S.A. Zip: 60532</p> <p>Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment <input type="checkbox"/> Merger</p> <p><input type="checkbox"/> Security Agreement <input checked="" type="checkbox"/> Change of Name</p> <p><input type="checkbox"/> Other _____</p> <p>Execution Date: June 15, 2000</p>	

<p>4. Application number(s) or patent number(s):</p> <p>If this document is being filed together with a new application, the execution date of the application is:</p> <table border="0"> <tr> <td style="width: 50%;"> <p>A. Patent Application No.(s)</p> <p>09/560,397</p> </td> <td style="width: 50%;"> <p>Filing Date</p> <p>April 28, 2000</p> </td> </tr> <tr> <td colspan="2"> <p>B. Patent No.(s)</p> </td> </tr> </table> <p>Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		<p>A. Patent Application No.(s)</p> <p>09/560,397</p>	<p>Filing Date</p> <p>April 28, 2000</p>	<p>B. Patent No.(s)</p>	
<p>A. Patent Application No.(s)</p> <p>09/560,397</p>	<p>Filing Date</p> <p>April 28, 2000</p>				
<p>B. Patent No.(s)</p>					
<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: Edward K. Runyan</p> <p>Registration No.: 43,067</p> <p>Company Name: McDonnell, Boehnen, Hulbert & Berghoff</p> <p>Street Address: 300 South Wacker Drive - 32nd Floor</p> <p>City: Chicago State: Illinois</p> <p>Country: U.S.A. ZIP: 60606</p>	<p>6. Total number of applications and patents involved: 1</p> <p>7. Total Fee (37 CFR 3.41).....\$40.00</p> <p><input type="checkbox"/> Enclosed</p> <p><input checked="" type="checkbox"/> Authorized to be charged to deposit account</p> <p>8. Deposit account number:</p> <p>13-2490</p>				

DO NOT USE THIS SPACE

<p>9. Statement and signature.</p> <p><i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i></p>	
<p>Edward K. Runyan</p> <p>Printed Name of Person Signing</p>	<p></p> <p>Signature</p> <p>Date: December 10, 2001</p>
<p>Total number of pages including cover sheet, attachments, and document: 3</p>	
<p>Mail documents to be recorded with required cover sheet information to:</p> <p>Commissioner of Patents and Trademarks</p> <p>Box Assignments</p> <p>Washington, D.C. 20231</p>	

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "ICG PATENT, INC.", CHANGING ITS NAME FROM "ICG PATENT, INC." TO "DELPHION, INC.", FILED IN THIS OFFICE ON THE FIFTEENTH DAY OF JUNE, A.D. 2000, AT 11:30 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



Edward J. Freel, Secretary of State

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AUTHENTICATION:

0499519

DATE:

06-15-00

**CERTIFICATE OF AMENDMENT
OF
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
ICG PATENT, INC.**

ICG Patent, Inc., a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that the amendment to the Corporation's Amended and Restated Certificate of Incorporation as set forth in the following resolution was duly adopted in accordance with the provisions of Section 228 and 242 of the General Corporation Law of the State of Delaware:

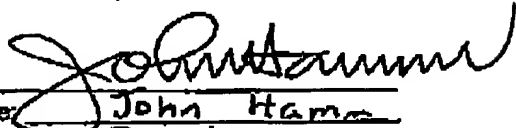
RESOLVED, that Section A of the Amended and Restated Certificate of Incorporation of the Corporation be amended in its entirety to read as follows:

A. Name

FIRST: The name of this Corporation (hereinafter called the or this "Corporation") is Delphion, Inc.

IN WITNESS WHEREOF, ICG Patent, Inc. has caused this Certificate of Amendment to be executed by its duly authorized officer as of June 7, 2000.

ICG PATENT, INC.

By: 
Name: John Hamm
Title: President

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